1950. K File No. B. Public Trusts (Amendment) 50

Legal Dept:

B BRANCH

Subject:— L.A. Bill No LX of 1950

A Bill to amend the Bombay Public Trusts Act 1950

Bom Act No XLVII of 1950

File No. B. Public Trusts (Amendment) 50

Gen. 194 e.

826-B

Office of the Charity Commissioner.

I had submitted the accompanying note on 18-9-50 to the R.L.A. in which I had raised the question whether service in the Charity Organisation can be treated as Government service or not. He, as indicated by him at an informal discussion with me, appeared to be of the view that as the salaries of the Charity Commissioner, Deputy and Assistant Charity Commissioners and the staff under them are made payable under section 60 of the Act out of the Public Trusts Administration Fund, the service in the Charity Organisation cannot be treated as service under Government. He stated that if service in the Charity Organization is to be made Government service, specific provision to that effect will have to be made in the Act as has been done in the case of officers and servants of the Secondary School Certificate Examination Board under the Bombay Act No. XLIX of 1948 (vide section 19 and 20).

2. I have in the accompanying note explained why it is absolutely necessary to treat service in the Charity Organisation as Government service. Also, as most of the personnel will be recruited from existing servants of the Judicial and other Government Departments, it will be cheaper to make the service in the Charity Organisation service under Government. For, in that case, it will not.....

not be necessary to treat service as foreign service and pay, in addition to the salary, the usual deputation allowance.

3. The question was discussed by the R.L.A. and me with H.M. (Law) on 7th instant at Bombay and he agreed that service in the Charity Organization must be made Government service and suggested that the Act might be immediately amended for that purpose during the current session of the Legislature.

4. The Addition Legal Secretary is requested to take necessary steps for the amendment of the Act.

5. I may mention that clause (h) of sub-section (2) of section 84 of the Act contains an accidental error. It should read not as at present but as follows:-

> (h) the form in which the trustees has to make a report regarding the charge under section 22;

If though necessary that error may also be rectified through the Amending Act.

Sd./-
Charity Commissioner.

SVV
22.6.56.
4 c.

Office of the Charity Commissioner.

Reference is invited to sections 57 and 60 of the Bombay Public Trusts Act, 1950. These sections contemplate the creation of a Public Trusts Administration Fund vesting in the Charity Commissioner which is to be applied to the payment of charges for expences incidental to the regulation of public trusts and generally for carrying into effect the provisions of the Act. The Charity Commissioner under section 42 is declared to be a corporation sole. Under sections 3 and 5 the State Government is to appoint a Charity Commissioner and Deputy or Assistant Charity Commissioners respectively. The power to appoint subordinate officers, such as inspectors and others, is also under section 6 vested in the State Government.

2. It is presumed that notwithstanding the fact that the salaries of the Charity Commissioner, Deputy and Assistant Charity Commissioners, inspectors and other subordinate staff are made payable out of the Public Trusts Administration Fund the service in the Charity Organisation will be treated as Government service and governed by the usual service rules in regard to leave, pension, discipline, etc. In this connection it maybe mentioned that under the Bombay Secondary School Certificate Examination Act, 1948, the service of the Chairman, officers and establishment of the Board, it is understood, is regarded as Government service, though the payment is made out of a fund vesting in the Board which is a body corporate.

3. It is submitted that unless service in the Charity Organisation is made Government service there are likely to be difficulties in the way .....

SVV .....

the way of recruiting personnel for the Organisation. Also it will be necessary to frame an independent set of rules regulating emoluments, provident fund, pension, conduct and discipline, etc. It may be pointed out that in England the Charity Commissioners' Organisation is a State Organisation paid out of State funds. There is no contribution levied in England from the public trusts and consequently no fund vesting in the Board of Charity Commissioners. In Madras, under the Hindu Religious Endowment Act, 1926, the service under the Board of Commissioners was not treated as Government service. But under the new Bill of 1949 (as altered by the Joint Select Committee) which is to replace the Act of 1926, the service under the Board of Commissioners is made Government service payable out of Government funds. (Vide clauses 81 and 104 of the Bill). Evidently in Madras Province they have found by experience that unless service under the Board is made Government service it is not attractive enough for the right type of persons. The R.L.A. is requested to advise whether under the Act as framed there is any legal difficulty in the way of treating service under the Charity Commissioner as Goverment service. However, it may be made clear that this need not entail any financial burden on Government as they can be fully imbursed on account of the cost of the establishment from the Public Trusts Administration Fund vesting in the Charity Commissioner.

4. I request that after the R.L.A. has examined the legal aspect of the question the matter might be referred to Government through the Finance Department for according

sanction.....

SVV
22.6.56.

sanction to the proposal that the service under the Charity Commissioner shall be Government service.

Sd./-
18/9/50.

R.L.A.

As the act now stands, it would be difficult to treat service under the Charity Commissioner as Government service, since, the payment is to be made out of the Administration fund.

This case was discussed with the H.M. (Law) and it was agreed that the act must be suitably modified so as to make the Charity Commissioner and servants under him Government servants. That can be achieved by paying them out of the Government revenue and requiring the Administration Fund to reimburse Government for the sums so spent. That is the model followed in the S.S.C. Board Act. Care should, however, be taken to see that the Charity Commissioner, as the head of the Department is given the necessary powers of taking disciplinery action in suitable cases.

"B" may please draft the amendment this
If it be possible we may propose it in/ session.

Sd./-
11/10.

SVV
22.6.56.
4 c.

Legal Department.

The Bill does not require any sanction but it requires the Governor's recommendation under article 207(3) of the Constitution.

The proposed legislation has been approved by H.H. (Law). A copy of the draft Bill may be sent to H.E. the Governor as required by instruction 23(4). To save time, orders of H.C.M. may be obtained that the draft Bill may be circulated to all H.Ms. for recording their opinion and then published in the Gazette, as expeditiously as possible.

Sd./-
12/10/50

Sd./-
Additional Secretary to Govt.

Sd./-
H.H. (Law)

Circulate to all H.Ms.

Sd./-
15/10
H.C.M.

IMMEDIATE.

No. 16293
Legal Department,
Bombay Castle, (Bombay No. 1),
31st November, 1950.

From

Shri J.R.Dhurandhar,
Additional Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Public Trusts(Amendment)Bill, 1950.

Sir,

With reference to article 200 of the Constitution of India, I am directed forward herewith for the assent of His Excellency the Governor the authentic copy of the Bombay Public Trusts (Amendment) Bill, 1950, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 26th and the 28th October 1950, respectively.

2. The subject-matter of the Bill falls under entry 41 in List II and entries 10, 11 and 28 in List III in the Seventh Schedule to the Constitution of India. As the Bill does not contain any provision repugnant to the provisions of any earlier law made by Parliament or an existing law with respect to any of the matters enumerated in the Concurrent Legislative List, it is not necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India.

3. The date on which His Excellency the Governor's assent is given may kindly be entered in the endorsement.

4. I also forward herewith one copy of each of the items Nos. 1, 2 and 4 and two copies of item No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill .....

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.

2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.

3. Bill as read for the third time and passed by the Bombay Legislative Council.

4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 26th October 1950 and of the Bombay Legislative Council dated the 28th October, 1950.

Yours faithfully,

Sd./-
21/11
Additional Secretary to Govt.

SVV
22.6.56.
4 c.

No. G.G. - 5565.

From
THE SECRETARY TO THE GOVERNOR OF BOMBAY.

To
The Additional Secretary to Government,
Legal Department.

Government House.
Bombay (6), November 25, 1950.

Subject: The Bombay Public Trusts (Amendment) Bill, 1950.

Sir,

With reference to your letter No. 16858, dated November 2, 1950, I am directed to return herewith the authenticated copy of the Bombay Public Trusts (Amendment) Bill, 1950, with His Excellency the Governor's signified assent thereon.

Yours faithfully,

Sd./-
Secretary to the Governor of Bombay.

DVT
GG. G. 5565
4 c.

ACTS.

Publication of the Bombay Public Trusts (Amendment) Act, 1950.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 16830.

Bombay Castle, 29th November, 1950.

Letter to the Secretary to the Governor, No. 16892, dated the 21st November, 1950.

Letter from the Secretary to the Governor, No. C.S. 3565, dated the 25th November, 1950.

"With reference to your letter No. 16892, dated November 21, 1950, I am directed to return herewith the authentic copy of the Bombay Public Trusts (Amendment) Bill, 1950, with His Excellency the Governor's assent signified thereon."

RESOLUTION:- The law should be published as Bombay Act No. XLVII of 1950, in the Bombay Government Gazette dated the 29th November, 1950.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

By order of the Governor of Bombay,

Sd./- R.L. Chaudhari.
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to Legal Department.).

SVV
22.6.56.
4 c.

REGISTERED No. B-1

105

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 18TH OCTOBER 1950.

Separate paging is given to this part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. LX OF 1950.

A Bill to amend the Bombay Public Trusts Act, 1950.

Bom. XXIX of 1950.

WHEREAS it is expedient to amend the Bombay Public Trusts Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Public Trusts (Amendment) Act, 1950.

Amendment of section 6 of Bom. XXIX of 1950.

2. In section 6 of the Bombay Public Trusts Act, 1950 (hereinafter called the said Act), the following proviso shall be added at the end, namely :—

"Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Charity Commissioner and the Deputy and Assistant Charity Commissioners power to appoint subordinate officers and servants, as may be specified in the order."

Insertion of new sections 6A and 6B in Bom. XXIX of 1950.

3. After section 6 of the said Act, the following new sections shall be inserted, namely :—

Charity Commissioner and other officers to be servants of State Government.

"6A. The Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act shall be the servants of the State Government and they shall draw their pay and allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be determined by the State Government.

Cost of pay, pension, etc., of Charity Commissioner etc. to be paid to Government out of the Public Trusts Administration Fund.

6B. There shall be paid every year out of the Public Trusts Administration Fund to the State Government such cost as the State Government may determine on account of the pay, pension, leave and other allowances of the Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act."

Amendment of section 84 of Bom. XXIX of 1950.

4. In clause (*h*) of sub-section (2) of section 84 of the said Act, for the words "Deputy or Assistant Charity Commissioner" the word "trustee" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

As most of the personnel required for the administration of the Bombay Public Trusts Act, 1950, will have to be recruited from the Judicial and other Departments of Government, it is desirable to treat services in the Charity Commissioner's organisation as service under Government. It is, therefore, proposed to amend the Act to make the Charity Commissioner and the staff under him Government servants (clause 3, new section 6A). The expenditure for their pay and allowances will be reimbursed to Government from the Public Trusts Administration Fund (clause 3, new section 6B). It is also proposed in clause 2 to amend section 6 to make a provision for delegation to the Charity Commissioner and other officers of the power to appoint the subordinate staff and in clause 4 to amend section 84 (2) (*h*) to bring its wording in line with the wording of section 22.

Dated the 13th October 1950. (Signed) D. N. DESAI.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 17th October 1950.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. LX OF 1950.

A Bill to amend the Bombay Public Trusts Act, 1950.

(As read for the third time and passed by the Lgislative Assembly on the 26th October 1950.)

Bom. XXIX of 1950.

WHEREAS it is expedient to amend the Bombay Public Trusts Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Public Trusts (Amendment) Act, 1950.

Amendment of section 6 of Bom. XXIX of 1950.

2. In section 6 of the Bombay Public Trusts Act, 1950 (hereinafter called the said Act), the following proviso shall be added at the end, namely:—

"Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Charity Commissioner and the Deputy and Assistant Charity Commissioners power to appoint subordinate officers and servants, as may be specified in the order."

Insertion of new sections 6A and 6B in Bom. XXIX of 1950.

3. After section 6 of the said Act, the following new sections shall be inserted, namely:—

Charity Commissioner and other officers to be servants of State Government.

"6A. The Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act shall be the servants of the State Government and they shall draw their pay and allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be determined by the State Government.

MO-II Bk Hb 342—1

Cost of pay, pension, etc., of Charity Commissioner etc. to be paid to Government out of the Public Trusts Administration Fund.

6B. There shall be paid every year out of the Public Trusts Administration Fund to the State Government such cost as the State Government may determine on account of the pay, pension, leave and other allowances of the Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act.". 10

Amendment of section 84 of Bom. XXIX of 1950.

4. In clause (*h*) of sub-section (2) of section 84 of the said Act, for the words "Deputy or Assistant Charity Commissioner" the word "trustee" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

As most of the personnel required for the administration of the Bombay Public Trusts Act, 1950, will have to be recruited from the Judicial and other Departments of Government, it is desirable to treat services in the Charity Commissioner's organisation as service under Government. It is, therefore, proposed to amend the Act to make the Charity Commissioner and the staff under him Government servants (clause 3, new section 6A). The expenditure for their pay and allowances will be reimbursed to Government from the Public Trusts Administration Fund (clause 3, new section 6B). It is also proposed in clause 2 to amend section 6 to make a provision for delegation to the Charity Commissioner and other officers of the power to appoint the subordinate staff and in clause 4 to amend section 84 (2) (*h*) to bring its wording in line with the wording of section 22.

Dated the 13th October 1950.

D. N. DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. LX OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 26th October 1950.)

A Bill to amend the Bombay Public Trusts Act, 1950.

[Shri D. N. DESAI, M.L.A.]

MO-II Bk Hb 342—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

135

L. A. BILL No. LX OF 1950.

A Bill to amend the Bombay Public Trusts Act, 1950.

(As read for the third time and passed by the Legislative Assembly on the 26th October 1950.)

(As read for the third time and passed by the Legislative Council on the 28th October 1950.)

Bom. XXIX of 1950.

WHEREAS it is expedient to amend the Bombay Public Trusts Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Public Trusts (Amendment) Act, 1950.

Amendment of section 6 of Bom. XXIX of 1950.

2. In section 6 of the Bombay Public Trusts Act, 1950 (hereinafter called the said Act), the following proviso shall be added at the end, namely :—

"Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Charity Commissioner and the Deputy and Assistant Charity Commissioners power to appoint subordinate officers and servants, as may be specified in the order.".

Insertion of new sections 6A and 6B in Bom. XXIX of 1950.

3. After section 6 of the said Act, the following new sections shall be inserted, namely :—

Charity Commissioner and other officers to be servants of State Government.

"6A. The Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act shall be the servants of the State Government and they shall draw their pay and allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be determined by the State Government.

MO-II Bk Hb 359—1

Cost of pay, pension, etc., of Charity Commissioner etc. to be paid to Government out of the Public Trusts Administration Fund.

6B. There shall be paid every year out of the Public Trusts Administration Fund to the State Government such cost as the State Government may determine on account of the pay, pension, leave and other allowances of the Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act.".

Amendment of section 84 of Bom. XXIX of 1950.

4. In clause (*h*) of sub-section (*2*) of section 84 of the said Act, for the words "Deputy or Assistant Charity Commissioner" the word "trustee" shall be substituted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. LX OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 26th October 1950.)

(As read for the third time and passed by the Legislative Council on the 28th October 1950.)

A Bill to amend the Bombay Public Trusts Act, 1950.

[Shri D. N. Desai, M.L.A.]

MO-II Bk Hb 359—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

WEDNESDAY, 29TH NOVEMBER 1950.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

	PAGES
BOMBAY ACT No. XLVII OF 1950—An Act to amend the Bombay Public Trusts Act, 1950	513-514

The following Act of the Bombay Legislature having been assented to by the Governor on the 24th November 1950, is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XLVII OF 1950.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 29th November 1950.)

An Act to amend the Bombay Public Trusts Act, 1950.

WHEREAS it is expedient to amend the Bombay Public Trusts Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Public Trusts (Amendment) Act, 1950. Short title.

Bom. XXIX of 1950.

2. In section 6 of the Bombay Public Trusts Act, 1950 (hereinafter called the said Act), the following proviso shall be added at the end, namely:— Amendment of section 6 of Bom. XXIX of 1950.

"Provided that the State Government may, by general or special order and subject to such conditions as it deems fit to impose, delegate to the Charity Commissioner and the Deputy and Assistant Charity Commissioners power to appoint subordinate officers and servants, as may be specified in the order.".

Insertion of new sections 6A and 6B in Bom. XXIX of 1950.

3. After section 6 of the said Act, the following new sections shall be inserted, namely :—

Charity Commissioner and other officers to be servants of State Government.

"6A. The Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act shall be the servants of the State Government and they shall draw their pay and allowances from the Consolidated Fund of the State. The conditions of service of such officers shall be such as may be determined by the State Government.

Cost of pay, pension, etc., of Charity Commissioner, etc., to be paid to Government out of the Public Trusts Administration Fund.

6B. There shall be paid every year out of the Public Trusts Administration Fund to the State Government such cost as the State Government may determine on account of the pay, pension, leave and other allowances of the Charity Commissioner, the Deputy and Assistant Charity Commissioners, the Inspectors and other subordinate officers and servants appointed under this Act.".

Amendment of section 84 of Bom. XXIX of 1950.

4. In clause (*h*) of sub-section (2) of section 84 of the said Act, for the words "Deputy or Assistant Charity Commissioner" the word "trustee" shall be substituted.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.